

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 695

Case No. 91-6

(Text Amendment - Petition to Amend the CAP Overlay District)

June 13, 1991

This petition in Z.C. Case No. 91-6 was filed on March 1, 1991 and is a request from Parry and Romani Associates to the Zoning Commission for the District of Columbia to consider amending Chapter 12 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The amendment's would permit limited office uses in Squares 758 and 759.

The subject Squares (758 and 759) are located in the Capitol Hill Historic District in the northeast part of Ward Six. The squares are bounded by Constitution Avenue on the north, East Capitol Street on the south, Third Street on the east, and Second Street on the west. Square 758 contains Lots 2, 3, 8, 11, 18-25, 31-39, 41-48, 800-806, 808-815, and 2001-2012. The physical character of Square 758 is predominantly row houses with a few flats and apartment buildings fronting on Second Street and Constitution Avenue to the north. Square 759 contains Lots 19-28, 36, 38, 40-46, 801, 803, 804, 820-824, 829 and 831-838. Square 759 contains similar uses with the exception of a church and ancillary office uses located off of East Capitol Street, N.E.

The petitioner's property lot 39, in Square 758 (233 Constitution Avenue, N.E.), is presently improved with a three-story plus cellar building.

The petitioner is requesting the Zoning Commission to amend the CAP/R-4 Zone District provisions of the Zoning Regulations to allow the continuation of existing limited lobby office uses within the subject square for an authorized term of ten years.

The R-4 Zone District permits matter-of-right development of residential uses including detached, semi-detached and row single-family dwellings and flats with a minimum lot occupancy of 60 percent, and a maximum height limit of three stories/40 feet.

The Capitol Interest District (CAP) Overlay permits development of uses that are consistent with the U.S. Capitol Master Plan to a maximum floor area ratio of 1.8 and a maximum height of three stories/40 feet. The CAP District is mapped in combination with other districts.

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On March 11, 1991, at its regular monthly meeting, the Zoning Commission considered the petition to determine whether to authorize the scheduling of a public hearing.

After Commission discussion, the Chairperson requested the Office of Planning (OP) to review and comment on the petition and report to the Commission at the April 8, 1991 Zoning Commission meeting.

The District of Columbia Office of Planning (OP), by report dated March 29, 1991, at the Zoning Commission's regular monthly meeting of April, recommended that the petition not be set for a public hearing and stated the following:

"The Office of Planning sees no reason to amend the CAP overlay district in order to allow incursion of office use into an R-4 location, especially regarding a property that was illegally converted from apartments to offices. The Board of Zoning Adjustment use variance case was the proper forum to determine whether any special consideration is due this property based on use variance standards. The denial of the use variance request is the proper ending to this matter. There is no general public interest in finding ways to permit or validate expansion of residential neighborhoods. Indeed, it must be hoped that the District's zoning enforcement mechanisms will be capable of ensuring a speedy vacancy of office use from the premises. Petitioners have enjoyed a substantial financial windfall for five-years at the expense of the housing market and their immediate neighbors."

Counsel for the petitioner, by letter dated April 5, 1991, urged the Commission not to accept the OP's report. The petitioner stated that the OP report was filed late and was in violation of 11 DCMR 3012. The petitioner further stated that the OP report is factually inaccurate and that the errors are the result of a rushed review by OP. The petitioner requested the Commission to defer action on the petition until the next scheduled meeting of the Commission on May 13, 1991.

After Commission discussion, the Chairperson ruled to defer the matter until the May 13, 1991 monthly meeting.

The OP re-read its report dated March 29, 1991, which recommended denial of a public hearing, stating that there is nothing unique or inherent in the properties that would warrant the Commission to amend the CAP Overlay.

Counsel for the petitioner submitted a motion dated May 13, 1991, requesting the Commission to consider its petition when the Commission is amending the Comprehensive Plan for Ward Six under

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D.C. Law 8-129. Counsel further stated that there are several inconsistencies in the Ward Six zoning and referenced several Board of Zoning Adjustment cases which he urged the Commission to review.

Advisory Neighborhood Commission (ANC) 6A did not comment on the petition.

No letters or comments were received in support of or in opposition to the petition.

The Zoning Commission concurs with the recommendation of OP, and believes that the petition lacks sufficient merit to be set for a public hearing.

The Commission believes the petition should be denied since the property was illegally converted from apartment to offices and sees no reason to amend the CAP Overlay to allow for such use in an R-4 location.


The Commission further believes that the petition is not in the best interest of the District of Columbia and with the intent and purpose of the Zoning Regulations and Zoning Act.


Upon consideration of the reasons set forth herein; the Zoning Commission for District of Columbia DENIES Case No. 91-6, without a public hearing.

Vote of the Zoning Commission taken at its regular public meeting of May 13, 1991, 5-0: (Tersh Boasberg, William L. Ensign and Maybelle Taylor Bennett, to deny without a public hearing - Lloyd D. Smith and John G. Parsons, to deny by proxy).

This order was adopted by the Zoning Commission at its regular monthly meeting of June 13, 1991, by a vote of 5-0: (Lloyd D. Smith, Maybelle Taylor Bennett, Tersh Boasberg and William Ensign, to deny without a public hearing - John G. Parsons, to deny by proxy).

In accordance with 11 DCMR 3028, this order is final and effective upon publication in the D.C. Register; that is, on JUL - 5 1991.


MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission


EDWARD L. CURRY
Executive Director
Zoning Secretariat